

REMARKS

Claims 1-24 are pending in the application.

Claims 1-24 have been rejected.

Claims 1-24 remain pending in this application.

Reconsideration of the claims is respectfully requested.

I. CLAIM REJECTIONS -- 35 U.S.C. § 103

Claims 1-18 and 20-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,173,910 to *Goodman* (hereinafter “Goodman”) in view of U.S. Patent Publication No. 2002/0145979 to *Baj* (hereinafter “Baj”). Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodman in view of Baj, and further in view of U.S. Patent Publication No. 2002/0114317 to *Dorenbosch, et al.* (hereinafter “Dorenbosch”). The Applicants respectfully traverse the rejections.

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the

reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142. In making a rejection, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), viz., (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. In addition to these factual determinations, the examiner must also provide "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir 2006) (cited with approval in *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007))).

The Applicants respectfully submit that the combination of cited references fails to teach or suggest all the claim elements of Claim 1. Specifically, Claim 1 recites "a telecommunication device comprising switching fabric including a plurality of voice paths" and "wherein the test controller comprises a simulator that coordinates verification of a voice and a signaling functionality of the telecommunication device".

It is unclear to the Applicants what device in Goodman or Baj is being interpreted by the Office Action as the telecommunication device of Claim 1.

If the Office Action is suggesting that the test probes of Goodman read upon the telecommunication device of Claim 1, the Applicants respectfully submit that the test probes of Goodman do not comprise **a switching fabric including a plurality of voice paths**. Furthermore, the voice and signaling functions of the test probes are not being verified in Goodman. Accordingly, the test probes of Goodman cannot be said to read upon the telecommunication device of Claim 1.

If the Office Action is suggesting that the VOIP gateways 16 of Goodman read upon the telecommunication device of Claim 1, the Applicants respectfully submit that the VOIP gateways 16 of Goodman are described in column 3, lines 8-12 of Goodman as follows:

The gateways 16a and 16b each are connected to the IP network 12 and provide translation services between protocols of the IP network and a conventional telephony network, such as a Public Switched Telephone Network (or "PSTN").

The Applicants respectfully submit that the VOIP gateways 16 of Goodman do not comprise **a switching fabric including a plurality of voice paths**. Accordingly, the VOIP gateways 16 of Goodman cannot be said to read upon the telecommunication device of Claim 1.

If the Office Action is suggesting that the gateways 13 of Baj read upon the telecommunication device of Claim 1, the Applicants respectfully submit that, similar to the VOIP gateways 16 of Goodman, the gateways 13 of Baj are described in paragraph [0027] of Baj as follows:

[0027] Gateways 13 provide translations of protocols for call setup and release, and conversions of media formats between different networks. ...

The Applicants respectfully submit that the gateways 13 of Baj do not comprise **a switching fabric including a plurality of voice paths**. Accordingly, the gateways 13 of Baj cannot be said to read upon the telecommunication device of Claim 1.

If the Office Action is suggesting that the gatekeeper 14 of Baj reads upon the telecommunication device of Claim 1, the Applicants respectfully submit that the gatekeeper 14 of Baj is described in paragraph [0027] of Baj as follows:

[0027] ... Gatekeeper 14 includes a routing table to route incoming VoIP calls to specified destinations according to destination addresses of the calls. ...

The Applicants respectfully submit that the voice and signaling functions of the gatekeeper 14 are not being verified in Baj. Rather, it is the quality of voice transmissions through the gateways 13.

For example, paragraphs [0032] and [0033] of Baj state:

[0032] For example, if calls going through a particular gateway consistently experience high distortions, the diagnostic procedure can direct calls to other gateways to see whether the distortions still exist. If the calls going through other gateways do not experience the same high distortions, then the particular gateway is identified as a likely cause of the distortion problem.

[0033] If gateway 13b, for example, is identified as a likely cause of a network problem, VoIP client 21 will execute the call initiation scripts to place a series of calls through gateway 13b to a given destination. Quality of the calls is measured at the destination. Components of gateway 13b, such as hardware modules, software clients, or a combination of both, that participate in the calls are identified. Further tests on the components, such as polling as described below, can be performed to pinpoint the network problem.

However, as established earlier, the gateways 13 of Baj do not comprise **a switching fabric including a plurality of voice paths**. Furthermore, there is not teaching or suggestion of verifying a signaling functionality of the gateways 13 of Baj.

Accordingly, neither the gatekeeper 14 nor the gateways 13 of Baj can be said to read upon the telecommunication device of Claim 1.

Therefore, the Applicants respectfully submit that the combination of cited references fails to teach or suggest “a telecommunication device comprising switching fabric including a plurality of voice paths” and “wherein the test controller comprises a simulator that coordinates verification of a voice and a signaling functionality of the telecommunication device”.

Accordingly, for at least the reasons established above, the Applicants respectfully submit that Claim 1 is patentable over the cited references.

Independent Claims 9 and 20 recite elements analogous to the novel elements emphasized above in traversing the rejection of Claim 1 and, therefore, also are patentable over the combination of cited references. Additionally, Claims 2-8, Claims 10-19 and Claims 21-24 depend from Claims 1, 9, and 20, respectively, and include all the elements of their respective base claims. As such, Claims 2-8, 10-19, and 21-24 also are patentable over the combination of cited references.

Accordingly, the Applicants respectfully request withdrawal of the § 103 rejections with respect to Claims 1-24.

CONCLUSION

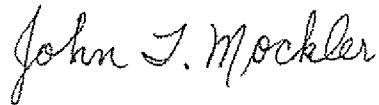
As a result of the foregoing, the Applicants assert that the remaining Claims in the Application are in condition for allowance, and respectfully request an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckcarter.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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